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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/000,148	12/04/2001	Michael K. Maxwell	7707.0020-00	8495
7590 02/18/2004				
Finnegan, Henderson, Farabow Garrett & Dunner, L.L.P. 1300 I Street, N.W. Washington, DC 20005-3315			EXAMINER STAICOVICI, STEFAN	
			ART UNIT 1732	PAPER NUMBER

DATE MAILED: 02/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/000,148

Applicant(s)

MAXWELL ET AL. 

Examiner

Stefan Staicovici

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 October 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-100 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-100 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

*Election/Restrictions*

1. Applicants' provisional election filed October 17, 2003 has been considered. However, in view of further consideration by this Examiner and to provide a clear record, the restriction requirement made September 29, 2003 is withdrawn and a new restriction requirement is provided as set forth below.

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-21 and 45-66, drawn to a molding process, classified in class 264, subclass 510.
- II. Claims 22-42, 44, 67-88 and 90, drawn to a molding apparatus, classified in class 425, subclass 504.
- III. Claims 91-100, drawn to a wing panel, classified in class 244, subclass 123.
- IV. Claims 43 and 89, drawn to a computer readable medium, classified in class 700, subclass 197.

The inventions are distinct, each from the other because of the following reasons:

3. Inventions Group I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the apparatus as claimed can be used to practice another and materially different process such as molding a material stack having a core sandwiched between fiber reinforced thermoplastic materials. Further, the process as claimed can be practiced by hand.

4. Inventions Group I and III are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the product as claimed can be made by another and materially different process such as adhesive bonding of a plurality of pre-cured fiber reinforced preforms.

5. Inventions Group I and IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different functions and modes of operation. The invention of Group I is drawn to a molding process that claims positive process steps to mold a composite structure. The invention of Group IV is drawn to a computer readable medium containing instructions for controlling a computer system. It is submitted that the inventions of Group I and IV have different functions and modes of operation because, the positive process steps of the molding process of Group I are unrelated either in function or mode of operation to the mathematical code of the computer readable medium of Group IV. It is submitted that positive process steps and mathematical instructions have different functions and modes of operation.

6. Inventions Group II and III are related as apparatus and product made. The inventions in this relationship are distinct if either or both of the following can be shown: (1) that the apparatus as claimed is not an obvious apparatus for making the product and the apparatus can be used for making a different product or (2) that the product as claimed can be made by another and

materially different apparatus (MPEP § 806.05(g)). In this case, the product as claimed can be made by another and materially different apparatus such as an adhesive bonding system that bonds a plurality of pre-cured fiber reinforced preforms.

7. Inventions Group II and IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different functions and modes of operation. The invention of Group II is drawn to a molding apparatus that claims structural limitations of a molding system used to mold a composite structure. The invention of Group IV is drawn to a computer readable medium containing instructions for controlling a computer system. It is submitted that the inventions of Group II and IV have different functions and modes of operation because, the structural limitations of the molding system of Group II are unrelated either in function or mode of operation to the mathematical code of the computer readable medium of Group IV. It is submitted that structural apparatus limitations and mathematical instructions have different functions and modes of operation.

8. Inventions Group III and IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different functions and modes of operation. The invention of Group III is drawn to an airplane wing panel that claims structural limitations of the wing panel. The invention of Group IV is drawn to a computer readable medium containing instructions for

controlling a computer system. It is submitted that the inventions of Group III and IV have different functions and modes of operation because, the structural limitations of the wing panel of Group III are unrelated either in function or mode of operation to the mathematical code of the computer readable medium of Group IV. It is submitted that structural product limitations and mathematical instructions have different functions and modes of operation.

9. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

10. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### *Conclusion*

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefan Staicovici, Ph.D. whose telephone number is (571) 272-1208. The examiner can normally be reached on Monday-Friday 9:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael P. Colaianni, can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Stefan Staicovici, PhD



Primary Examiner

2/9/04

AU 1732

February 9, 2004